



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-821

Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain tool chests and cabinets (tool chests) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The final dumping margin of sales at LTFV is listed in the “Final Determination” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* in the LTFV investigation of tool chests from Vietnam on November 16, 2017.¹ We invited parties to comment on the *Preliminary Determination*. For a complete description of the events that followed the

¹ See *Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 82 FR 53452 (November 16, 2017) (*Preliminary Determination*).

Preliminary Determination, see the Issues and Decision Memorandum dated concurrently with, and hereby adopted by, this notice.²

Period of Investigation

The period of investigation is October 1, 2016, through March 31, 2017.

Scope of the Investigation

The products covered by this investigation are tool chests from Vietnam. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in Commerce’s Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>.

² See Memorandum, “Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,” dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

Verification

Because the sole mandatory respondent in this investigation, Clearwater Metal Single Entity³ withdrew from the scheduled verification, Commerce was unable to conduct verification under section 782(i)(1) of the Tariff Act of 1930, as amended (the Act).

Vietnam-Wide Entity and Use of Adverse Facts Available

Because Clearwater Metal Single Entity prevented us from conducting verification of its questionnaire responses, including its claim that it is a wholly foreign-owned company, we find that Clearwater Metal Single Entity is considered part of the Vietnam-wide entity. We continue to find that the use of facts available is warranted in determining the dumping margin of the Vietnam-wide entity, pursuant to section 776(a)(1) and (a)(2)(A)-(C) of the Act. Further, use of facts available is also warranted, pursuant to section 776(a)(2)(D) of the Act, because information provided by Clearwater Metal Single Entity, that is part of the Vietnam-wide entity, could not be verified. We, also, continue to find that the Vietnam-wide entity failed to cooperate to the best of its ability and, therefore, the use of adverse facts available with an adverse inference is appropriate, pursuant to section 776(b) of the Act.

Changes from Preliminary Determination

In light of the discussion above, we have made certain changes in the final determination, which are fully described in the Issues and Decision Memorandum. As a result of these changes, we relied on the highest product matching control number-specific dumping margin we

³ Commerce preliminarily determined that Clearwater Metal VN JSC, Rabat Corporation, and CSPS Co., Ltd., are a single entity (hereinafter, Clearwater Metal Single Entity). See *Preliminary Determination*, 82 FR at 53453 n.10; see also Memorandum, “Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Collapsing and Single Entity Treatment,” dated November 14, 2017. Nothing has changed for this final determination, and therefore, we continue to treat these companies as a single entity.

calculated for Clearwater Metal Single Entity in the *Preliminary Determination* to determine the dumping margin for the Vietnam-wide entity of 327.17 percent.⁴

Final Determination

Commerce determines that a weighted-average dumping margin of 327.17 percent exists for the Vietnam-wide entity.

Disclosure

The dumping margin assigned to the Vietnam-wide entity for the final determination in this investigation was based on adverse facts available, *i.e.*, the highest product matching control number-specific dumping margin calculated for Clearwater Metal Single Entity in the *Preliminary Determination*. As such, no disclosure of calculations is necessary for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of tool chests from Vietnam, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 16, 2017, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*.

Pursuant to 19 CFR 351.210(d), upon the publication of this notice, Commerce will instruct CBP to require a cash deposit⁵ equal to the weighted-average amount by which the normal value exceeds U.S. price as shown above. These suspension of liquidation instructions will remain in effect until further notice.

⁴ See Issues and Decision Memorandum for a full discussion of this issue.

⁵ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: April 3, 2018

Appendix I

Scope of the Investigation

The scope of this investigation covers certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from the Socialist Republic of Vietnam (Vietnam). The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

- (1) a body made of carbon, alloy, or stainless steel and/or other metals;
- (2) two or more drawers for storage in each individual unit;
- (3) a width (side to side) exceeding 15 inches for side cabinets and exceeding 21 inches for all other individual units but not exceeding 60 inches;
- (4) a body depth (front to back) exceeding 10 inches but not exceeding 24 inches; and
- (5) prepackaged for retail sale.

For purposes of this scope, the width parameter applies to each individual unit, *i.e.*, each individual top chest, intermediate top chest, tool cabinet, side cabinet, storage unit, mobile work bench, and work station.

Prepackaged for retail sale means the units may, for example, be packaged in a cardboard box, other type of container or packaging, and may bear a Universal Product Code, along with photographs, pictures, images, features, artwork, and/or product specifications. Subject tool chests and cabinets are covered whether imported in assembled or unassembled form. Subject merchandise includes tool chests and cabinets produced in Vietnam but assembled, prepackaged for retail sale, or subject to other minor processing in a third country prior to importation into the United States. Similarly, it would include tool chests and cabinets produced in Vietnam that are assembled, prepackaged for retail sale, or subject to other minor processing after importation into the United States.

Subject tool chests and cabinets may also have doors and shelves in addition to drawers, may have handles (typically mounted on the sides), and may have a work surface on the top. Subject tool chests and cabinets may be uncoated (*e.g.*, stainless steel), painted, powder coated, galvanized, or otherwise coated for corrosion protection or aesthetic appearance.

Subject tool chests and cabinets may be packaged as individual units or in sets. When packaged in sets, they typically include a cabinet with one or more chests that stack on top of the cabinet. Tool cabinets act as a base tool storage unit and typically have rollers, casters, or wheels to permit them to be moved more easily when loaded with tools. Work

stations and mobile work benches are tool cabinets with a work surface on the top that may be made of rubber, plastic, metal, wood, or other materials.

Top chests are designed to be used with a tool cabinet to form a tool storage unit. The top chests may be mounted on top of the base tool cabinet or onto an intermediate chest. They are often packaged as a set with tool cabinets or intermediate chests, but may also be packaged separately. They may be packaged with mounting hardware (*e.g.*, bolts) and instructions for assembling them onto the base tool cabinet or onto an intermediate tool chest which rests on the base tool cabinet. Smaller top chests typically have handles on the sides, while the larger top chests typically lack handles. Intermediate tool chests are designed to fit on top of the floor standing tool cabinet and to be used underneath the top tool chest. Although they may be packaged or used separately from the tool cabinet, intermediate chests are designed to be used in conjunction with tool cabinets. The intermediate chests typically do not have handles. The intermediate and top chests may have the capability of being bolted together.

Side cabinets are designed to be bolted or otherwise attached to the side of the base storage cabinet to expand the storage capacity of the base tool cabinet.

Subject tool chests and cabinets also may be packaged with a tool set included. Packaging a subject tool chest and cabinet with a tool set does not remove an otherwise covered subject tool chest and cabinet from the scope. When this occurs, the tools are not part of the subject merchandise.

All tool chests and cabinets that meet the above definition are included in the scope unless otherwise specifically excluded.

Excluded from the scope of the investigation are tool boxes, chests, and cabinets with bodies made of plastic, carbon fiber, wood, or other non-metallic substances.

Also excluded from the scope of the investigation are industrial grade steel tool chests and cabinets. The excluded industrial grade steel tool chests and cabinets are those:

- (1) having a body that is over 60 inches in width; or
- (2) having each of the following physical characteristics:
 - (a) a body made of steel that is 0.047 inches or more in thickness;
 - (b) a body depth (front to back) exceeding 21 inches; and
 - (c) a unit weight that exceeds the maximum unit weight shown below for each width range:

Weight to Width Ratio Tool Chests	
Inches	Maximum Pounds
21 > ≤ 25	90
25 > ≤ 28	115
28 > ≤ 30	120
30 > ≤ 32	130
32 > ≤ 34	140
34 > ≤ 36	150
36 > ≤ 38	160
38 > ≤ 40	170
40 > ≤ 42	180
42 > ≤ 44	190
44 > ≤ 46	200
46 > ≤ 48	210
48 > ≤ 50	220
50 > ≤ 52	230
52 > ≤ 54	240
54 > ≤ 56	250
56 > ≤ 58	260
58 > ≤ 60	270

Weight to Width Ratio Tool Cabinets	
Inches	Maximum Pounds
21 > ≤ 25	155
25 > ≤ 28	170
28 > ≤ 30	185
30 > ≤ 32	200
32 > ≤ 34	215
34 > ≤ 36	230
36 > ≤ 38	245
38 > ≤ 40	260
40 > ≤ 42	280
42 > ≤ 44	290
44 > ≤ 46	300
46 > ≤ 48	310
48 > ≤ 50	320
50 > ≤ 52	330
52 > ≤ 54	340
54 > ≤ 56	350
56 > ≤ 58	360
58 > ≤ 60	370

Also excluded from the scope of the investigation are service carts. The excluded service carts have all of the following characteristics:

- (1) casters, wheels, or other similar devices which allow the service cart to be rolled from place to place;
- (2) an open top for storage, a flat top, or a flat lid on top of the unit that opens;
- (3) a space or gap between the casters, wheels, or other similar devices, and the bottom of the enclosed storage space (e.g., drawers) of at least 10 inches; and
- (4) a total unit height, including casters, of less than 48 inches.

Also excluded from the scope of the investigation are non-mobile work benches. The excluded non-mobile work benches have all of the following characteristics:

- (1) a solid top working surface;
- (2) no drawers, one drawer, or two drawers in a side-by-side configuration; and

(3) the unit is supported by legs and has no solid front, side, or back panels enclosing the body of the unit.

Also excluded from the scope of this investigation are metal filing cabinets that are configured to hold hanging file folders and are classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 9403.10.0020.

Merchandise subject to this investigation is classified under HTSUS categories 9403.20.0021, 9403.20.0026, 9403.20.0030, 9403.20.0080, 9403.20.0090, and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500.⁶ While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

⁶ On February 8, 2018, Commerce included HTSUS subheadings 9403.20.0080 and 9403.20.0090 to the case reference files, pursuant to requests by CBP. *See* Memorandum, “Requests from Customs and Border Protection to Update the ACE Case Reference File,” dated February 8, 2018.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Changes Since the Preliminary Determination
- V. Discussion of the Issues:
 - The Total Adverse Facts Available Rate for the Vietnam-Wide Entity and Selection of Surrogate Country and Surrogate Values
- VI. Recommendation

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